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Aug-20-04 13:44

From-LAHIVE & COCKFIELD, LLP

6177424214

T-150 P.01/09 F-429

JCWSCS 23 AUG 2004

## FAX TRANSMISSION

**DATE:** August 20, 2004

**PTO IDENTIFIER:** Application Number 10/728019-Conf. #8027  
Patent Number

**Inventor:** Gary L. JOHNSON

**MESSAGE TO:** Office of Initial Patent Examination

**FAX NUMBER:** (703) 746-9195

**FROM:** LAHIVE & COCKFIELD, LLP  
Debra J. Milasincic

**PHONE:** (617) 227-7400

**Attorney Dkt. #:** CPI-042CN2

**PAGES (Including Cover Sheet):** 9

**CONTENTS:** Transmittal (SB 21) (1 page);  
Certificate of Transmission under 37 CFR 1.8 (1 page);  
Petition Requesting Grant of Original Filing Date (2 pages);  
Copy of Official Filing Receipt with correction marked (1 page);  
Copy of executed Transmittal filed with Application on 12/3/03 (1 page);  
Copy of return postcard with PTO date stamp (1 page); and  
Copy of Express Mail receipt with date stamp (1 page).

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**LAHIVE & COCKFIELD, LLP**  
28 State Street, Boston, Massachusetts 02109  
Telephone: (617) 227-7400 Facsimile: (617) 742-4214

PTO/SB/21 (04-04)

Approved for use through 07/31/2008 OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

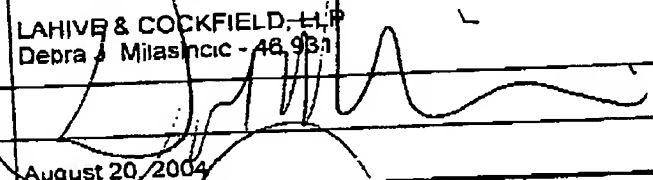
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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10/728019-Conf. #8027
	Filing Date	December 3, 2003
	First Named Inventor	Gary L. JOHNSON
	Art Unit	1646
	Examiner Name	Not Yet Assigned
	Attorney Docket Number	CPI-042CN2
Total Number of Pages in This Submission		

**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below) Pet. Requesting Grant of Original Filing Date (2 pgs.); Cert. of Transmission (1 pg.); Copy of executed Trans. filed with App. on 12/3/03; Copy of Filing Receipt w/correction marked (1 pg.); Copy of return postcard w/PTO date stamp (1 pg.); and Copy of Express Mail receipt with date stamp (1 pg.)
Remarks _____		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	LAHIVE & COCKFIELD, LLP Debra J. Milasincic - 48,931
Signature	
Date	August 20, 2004

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872-9306, on the date shown below

Dated, August 20, 2004

Signature: \_\_\_\_\_

(Debra J. Milasincic)

PTO/SB/97 (08-03)  
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Application No. (if known): 10/728019

Attorney Docket No.. CPI-042CN2

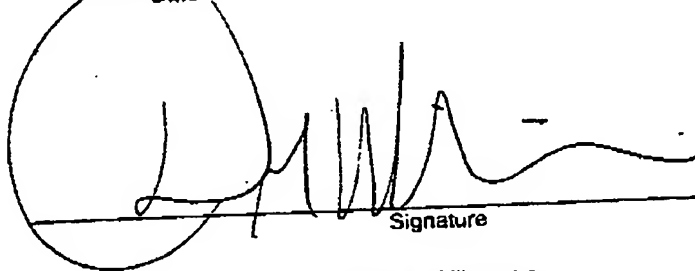
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Transmittal (SB 21) (1 page);  
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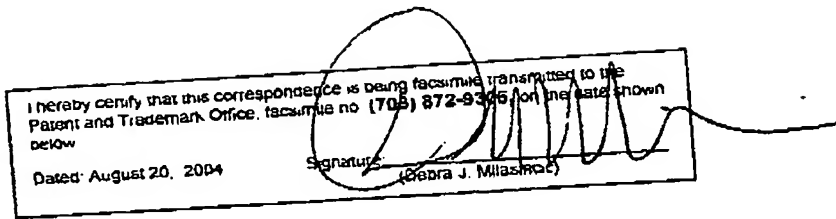
on August 20, 2004  
Date



Signature

Debra J. Milasincic  
Typed or printed name of person signing Certificate

Note. Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Docket No.: CP1-042CN2  
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re Patent Application of:  
Gary L. Johnson

Application No.: 10/728019

Filed: December 3, 2003

For: **METHOD AND PRODUCT FOR REGULATING  
APOPTOSIS**

Confirmation No.: N/A

Art Unit: 1646

Examiner: Not Yet Assigned

MS PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**PETITION REQUESTING GRANT OF ORIGINAL FILING DATE  
PURSUANT TO 37 C.F.R. §1.10**

Dear Sir:

Enclosed is documentation supporting that the above-referenced application was deposited with the U.S. Postal Service on December 3, 2003 and was inadvertently date-stamped as deposited on December 4, 2003. Applicants hereby request that this application be granted a filing date of December 3, 2003, the actual United States Postal Service ("USPS") deposit date, pursuant to C.F.R. §1.10. The aforementioned filing date should be granted as the entire specification, Drawing, Sequence Listing, filing fee and acknowledgement postcard were submitted on the aforementioned date.

In support of their request, Applicants attach hereto copies of the following documents as evidence of the actual filing date of December 3, 2003 for the above-referenced application:

- (1) a true copy of the "Express Mail" mailing label No. EV 309882195 US, bearing the "date in" of December 3, 2003 and also bearing the official United States Postal Service/ BOSTON, MA 02205 date stamp of December 3, 2003 in the upper right-hand corner of the Express Mail label, indicating that the application package was in fact deposited with the United States Postal Service "Express Mail Post Office to Addressee" on December 3, 2003;

Application No.: 10/728019

Docket No.: CPI-042CN2

(2) A copy of the executed Transmittal Form which was filed with the Application on December 3, 2003.

Also enclosed is a copy of the return receipt postcard which indicates that the incorrect filing date was date-stamped on the postcard, and also the official Filing Receipt which subsequently issued in this application with the incorrect date. Applicants hereby request that a corrected official Filing Receipt be issued with the corrected filing date of December 3, 2003.

The above-referenced items (1) and (2) are true copies, and conclusively establish that the instant application was deposited with the United States Postal Service "Express Mail" on December 3, 2003 and is therefore entitled to a filing date of December 3, 2003.

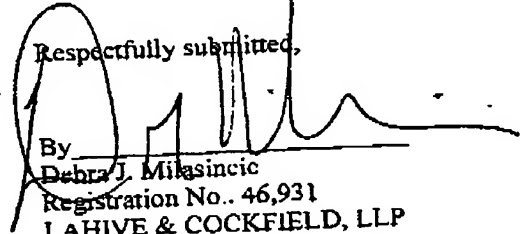
In summary, Applicants respectfully request that the present Petition be granted and that the filing date of this patent application be December 3, 2003.

Please contact the undersigned at 671-227-7400 with any questions.

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. CPI-042CN2 from which the undersigned is authorized to draw.

Dated: August 20, 2004

Respectfully submitted,

By   
Debra J. Milasincic  
Registration No. 46,931  
LAHIVE & COCKFIELD, LLP  
28 State Street  
Boston, Massachusetts 02109  
(617) 227-7400  
(617) 742-4214 (Fax)  
Attorney/Agent For Applicant

NOTE



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1459  
Alexandria, Virginia 22313-1459  
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FILE FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/728,019	12/04/2003 03	1646	780	CPI-042CN2	22	40	8

CONFIRMATION NO. 8027

## FILING RECEIPT



\*OC000000012105952\*

00959  
LAHIVE & COCKFIELD, LLP.  
28 STATE STREET  
BOSTON, MA 02109

Date Mailed: 03/15/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Gary L. Johnson, Boulder, CO;

## Domestic Priority data as claimed by applicant

This application is a CON of 09/858,754 05/16/2001  
which is a CON of 09/023,130 02/13/1998 ABN  
which claims benefit of 60/039,740 02/14/1997

## Foreign Applications

If Required, Foreign Filing License Granted: 03/15/2004

Projected Publication Date: 06/24/2004

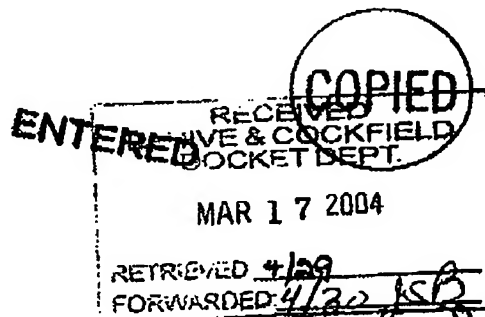
Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

## Title

Method and product for regulating apoptosis



PTO/SB/05 (08-03)  
Approved for use through 07/31/2006 OMB 0651-0032  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>UTILITY PATENT APPLICATION TRANSMITTAL</b>		Attorney Docket No. <b>CPI-042CN2</b>	
		First Inventor <b>Gary L. Johnson</b>	
(Only for new nonprovisional applications under 37 CFR 1.53(d))		Title	<b>METHOD AND PRODUCT FOR REGULATING APOPTOSIS</b>
		Express Mail Label No.	<b>EV 309882195 US</b>

<b>APPLICATION ELEMENTS</b> See MPEP chapter 600 concerning utility patent application contents.	<b>ADDRESS TO:</b> MS Patent Application Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
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1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) (Submit an original, and a duplicate for fee processing) 2. <input checked="" type="checkbox"/> Applicant claims small entity status See 37 CFR 1.27 3. <input checked="" type="checkbox"/> Specification <span style="float: right;">[Total Pages <b>135</b>]</span> (Preferred arrangements set forth below) - Descriptive title of the invention - Cross Reference to related applications - Statement Regarding Fee sponsored R & D - Reference to sequence listing, a table, or a computer program listing appendix - Background of the invention - Brief Summary of the invention - Brief Description of the Drawings (if filed) - Detailed Description - Claim(s) - Abstract of the Disclosure 4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) <span style="float: right;">[Total Sheets <b>22</b>]</span> 5. Oath or Declaration <span style="float: right;">[Total Sheets <b>1</b>]</span> a. <input type="checkbox"/> Newly executed (original or copy) b. <input checked="" type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) (for continuations/divisional with Box 18 completed) c. <input type="checkbox"/> <b>DELETION OF INVENTOR(S)</b> Signed statements attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(a)(2) and 1.33(p). 6. <input checked="" type="checkbox"/> Application Data Sheet See 37 CFR 1.76	7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix) 8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary) a. <input type="checkbox"/> Computer Readable Form (CRF) b. Specification Sequence Listing on: c. <input checked="" type="checkbox"/> CD-ROM or CD-R (2 copies), or <input checked="" type="checkbox"/> Paper c. <input checked="" type="checkbox"/> Statements verifying identity of above copies <b>ACCOMPANYING APPLICATION PARTS</b> 9. <input type="checkbox"/> Assignment Papers (cover sheet & document(s)) 10. <input type="checkbox"/> 37 CFR 3.73(b) Statement <input type="checkbox"/> Power of Attorney (when there is an assignee) 11. <input type="checkbox"/> English Translation Document (if applicable) 12. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations 13. <input type="checkbox"/> Preliminary Amendment 14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) (Should be specifically itemized) 15. <input type="checkbox"/> Certified Copy of Priority Document(s) (if foreign priority is claimed) 16. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i) Applicant must attach form PTO/SB/35 or its equivalent 17. <input type="checkbox"/> Other
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18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

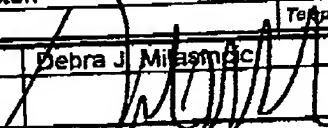
☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: **09/858754**

Prior application information. Examiner **Minh-Tam B. Davis** Art Unit **1642**

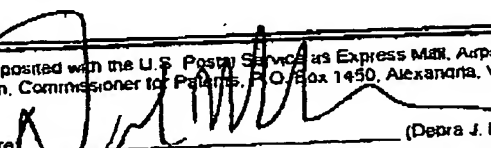
For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5a, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**

☒ Customer Number: **00959** OR ☐ Correspondence address below

Name <b>LAHIVE &amp; COCKFIELD, LLP</b>			
Address <b>Giulio A. DeConti, Jr.</b>			
Address <b>26 State Street</b>			
City <b>Boston</b>	State <b>MA</b>	Zip Code <b>02109</b>	
Country <b>US</b>	Telephone <b>(617) 227-7400</b>	Fax <b>(617) 742-4214</b>	
Name (Print/Type) <b>Debra J. Milasincic</b>		Registration No. (Attorney/Agent) <b>46,931</b>	
Signature 		Date <b>December 3, 2003</b>	

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Date: <b>December 3, 2003</b>	Signature  (Debra J. Milasincic)

Inventor: Gary L. Johnson

Application No.: Not Yet Assigned

Title: METHOD AND PRODUCT FOR REGULATING APOPTOSIS

US Filing Date: Concurrently Herewith



Atty Docket No.: CPl-042CN2

**Documents Filed:**

Utility Patent Application Transmittal (1 page) (in duplicate)

Fee Transmittal (1 page)

Specification (135 pages)

11 drawings (22 sheets)

A copy of the executed Declaration, Petition and Power of Attorney document (5 pages)

Application Data Sheet (2 pages)

Request To Use Identical Computer Readable Form From Another Application (1 page)

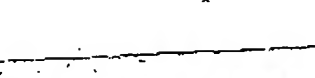
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Date: December 3, 2003

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